

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

AMERICO VALDEZ,

Plaintiff

v.

THE GEO GROUP, INC.,

Defendant

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No. L-17-CV-157

NOTICE OF REMOVAL TO FEDERAL COURT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES The GEO Group, Inc., Defendant in the above styled and numbered cause, and files this Notice of Removal. As grounds for removal, Defendant respectfully shows the following:

1. The GEO Group, Inc. is the Defendant in a civil action pending in the 406th Judicial District Court in Webb County, Texas, styled *Americo Valdez v. The GEO Group, Inc.*, Cause No. 2017-CV-F00063D4, which was filed in that court on April 4, 2017. The Plaintiff, Americo Valdez, alleges he was assaulted and stabbed as a result of defendant's negligence. He alleges damages between \$200,000.00 and \$1,000,000.00.

2. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1). Valdez is presently housed at the Victorville Federal Correctional Complex in California. He alleged, however, that he is a citizen of the State of Texas. Either way, The GEO Group, Inc. is a citizen of the State of Florida, the state in which it is incorporated and in which it has its principle place of business, so removal is proper under 28 U.S.C. § 1441(b)

because the parties are completely diverse.

3. Pursuant to 28 U.S.C. § 1446(a), attached hereto are copies of all process, pleadings and the orders served upon Defendant in the state court proceeding. (Exhibit A).

4. The action was commenced on April 4, 2017. Defendant was never properly served with summons or citation, although service was attempted on July 24, 2017.

5. This notice of removal is timely under 28 U.S.C. § 1446(b) because the removal is within thirty (30) days after Defendant first received a copy of a paper from which it could first ascertain that the case is one which is or has become removable. *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354, 119 S.Ct. 1322, 143 L.Ed.2d 448 (1999) (Removal deadline runs from date of service); *City of Clarksdale v. BellSouth Telecomms., Inc.*, 428 F.3d 206, 210 (5th Cir. 2005) (same).

6. The United States District Courts have original jurisdiction over this action based on complete diversity of citizenship between the parties, in that every properly joined defendant is now, and was at the time the action was commenced, diverse in citizenship from every plaintiff. Plaintiff is alleged to be a “resident citizen of Webb County, Texas.” Defendant, The GEO Group, Inc., is, and was at the time the suit was commenced, a citizen of the State of Florida, the state in which it was organized and in which it has its principle place of business. Accordingly, none of the properly joined defendants is a citizen of the State of Texas, and the parties are completely diverse. Plaintiff's petition, attached, asserts a claim against Defendant in excess of \$75,000.00,

exclusive of interest and costs; therefore, this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).

7. Venue is proper in the United States District Court, Southern District of Texas, Laredo Division, as the district and division embracing the place where the state action is pending. 28 U.S.C. §§ 1441(a), 1446(a).

8. Pursuant to 28 U.S.C. § 1446(d), Defendant intends to serve written notice of this removal upon all interested and adverse parties and upon the Clerk of the Court for the 406th Judicial District Court of the State of Texas, Webb County, Texas, promptly after filing this Notice of Removal.

9. The GEO Group, Inc. is the sole defendant. Accordingly, there are no other defendants, properly joined and served, to join in or consent to the removal of the action. 28 U.S.C. § 1446(b)(2)(A).

WHEREFORE, PREMISES CONSIDERED, The GEO Group, Inc., the Defendant in this action, pursuant to these statutes and in conformance with the requirements set forth in 28 U.S.C. § 1446, removes the case styled *Americo Valdez v. The GEO Group, Inc.*, pending in the 406th Judicial District Court in Webb County, Texas, on this 14th day of August, 2016.

Respectfully Submitted,



SHAWN FITZPATRICK

State Bar No. 00787474

FITZPATRICK & KOSANOVICH, P.C.

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San Antonio, Texas 78283

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956.791.3003

adriana@benmadlaw.com

edward@benmadlaw.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify service of a true and correct copy of the foregoing instrument on the following interested person(s) on August 13, 2017, via First Class United States Mail, email, and this court's electronic filing and notification system:

Norma Nellie Vielma
Vielma Law Firm, PLLC
1007 San Dario Ave.
Laredo, Texas 78040



SHAWN FITZPATRICK

Exhibit A

SERVE
2017CVF000663D4

CITATION

THE STATE OF TEXAS
COUNTY OF WEBB

COURT DATE 07/17/2017@2:00PM

NOTICE TO THE DEFENDANT: "YOU HAVE BEEN SUED. YOU MAY EMPLOY AN ATTORNEY. IF YOU OR YOUR ATTORNEY DO NOT FILE A WRITTEN ANSWER WITH THE CLERK WHO ISSUED THIS CITATION BY 10:00 A.M. ON THE MONDAY NEXT FOLLOWING THE EXPIRATION OF TWENTY DAYS AFTER YOU WERE SERVED THIS CITATION AND PETITION, A DEFAULT JUDGMENT MAY BE TAKEN AGAINST YOU."

TO: THE GEO GROUP INC D/B/A RIO GRANDE DETENTION CENTER
1001 SAN RIO BLVD
LAREDO TX 78046

DEFENDANT, IN THE HEREINAFTER STYLED AND NUMBERED CAUSE, YOU ARE HEREBY COMMANDED TO APPEAR BEFORE THE 406th District Court of Webb County, Texas, to be held at the said courthouse of said county in the city of Laredo, Webb County, Texas, by filing a written answer to the Petition of Plaintiff at or before 10:00 O'CLOCK A.M. of the Monday next after the expiration of 20 days after the date of service thereof, a copy of which accompanies this citation, in the Cause #: 2017CVF000663D4 , styled:

AMERICO VALDEZ, PLAINTIFF

VS.

THE GEO GROUP INC, DEFENDANT

Said Plaintiff's Petition was filed on 04/04/2017 in said court by:

NORMA NELLY VIELMA, ATTORNEY FOR PLAINTIFF
1007 SAN DARIO
LAREDO TX 78040

WITNESS ESTHER DEGOLLADO, DISTRICT CLERK OF WEBB COUNTY, TEXAS, Issued and given under my hand and seal of said court at office, on this the 11th day of April, 2017.

C L E R K O F C O U R T



ESTHER DEGOLLADO
WEBB COUNTY DISTRICT CLERK
P.O. BOX 667
LAREDO, TX 78042

BY:  DEPUTY
Esmeralda Alvarado

2017CVF000663D4

OFFICER'S RETURN

Came to hand on the _____ day of _____, 2017 at
 _____ O'CLOCK _____ .M. Executed at
 _____, within the COUNTY of _____
 at _____ O'CLOCK _____ .M. on the _____ day of
 _____, 2017, by delivering to the within named **THE
 GEO GROUP INC**, each, in person, a true copy of this citation
 together with the accompanying copy of the petition, having
 first attached such copy of such petition to such copy of
 citation and endorsed on such copy of citation the date of
 delivery.

The distance actually traveled by me in serving such process was
 _____ miles, and my fees are as follows:

Total Fee for serving this citation \$ _____.

To certify which, witness my hand officially.

 SHERIFF, CONSTABLE

 COUNTY, TEXAS

BY _____
 DEPUTY

THE STATE OF TEXAS }
 COUNTY OF WEBB }

Before me, the undersigned authority, on this day personally
 appeared _____, who after being duly
 sworn, upon oath said that a notice, of which the above is a
 true copy, was by him/her delivered to

_____ on the
 _____ day of _____, _____.

SWORN TO AND SUBSCRIBED BEFORE ME on the _____ day of
 _____, _____, to certify which witness my hand and
 seal of office.

 NOTARY PUBLIC
 MY COMMISSION EXPIRES

Filed
4/4/2017 9:30:27 AM
Esther Degollado
District Clerk
Webb District
Esmeralda Alvarado
2017CVF000663D4

NO. _____

AMERICO VALDEZ
Plaintiff,

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IN THE DISTRICT COURT

V.

_____ JUDICIAL DISTRICT

THE GEO GROUP, INC. D/B/A
RIO GRANDE DETENTION CENTER
Defendant.

WEBB COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Americo Valdez ("Plaintiff"), complaining of The GEO Group D/B/A Rio Grande Detention Center ("Defendant") and for cause of action would respectfully shoe unto the Court as follows:

DISCOVERY-CONTROL PLAN

This case will be governed by discovery-control plan level 3.

PARTIES

Plaintiff is a resident citizen of Webb County, Texas.

Defendant, The GEO Group, INC. D/B/A Rio Grande Detention Center, 1001 San Rio Blvd., Laredo, Texas 78046.

Defendant, is a company doing business in Texas and can be served by process with citation to its registered agent at, OR wherever he may be found.

Plaintiff has requested service by private process.

MISNOMER, ALTER-EGO, ASSUMED NAME

In the event any parties are misnamed or not included herein, such event was a misnomer, or such parties are or were alter egos of parties named herein.

JURISDICTION AND VENUE

Venue is proper in Webb County, Texas, pursuant to Section 15.001 of the Texas Civil Practice and Remedies Code, as all or part of the Plaintiff's cause of action occurred on or about April 6, 2015 in Laredo, Webb County, Texas.

FACTS

On or about April 6, 2015 in Webb County, Texas, Plaintiff was detained in Rio Grande Detention Center a center owned and operated by the GEO Group, INC. The Plaintiff was being escorted back to his cell block by the correction officers employed by the GEO Group, INC. D/B/A Rio Grande Detention Center; while walking back and being shackled from his hands and feet, the Plaintiff was stabbed and attacked by another inmate due to negligent acts of the Defendant, the GEO Group, INC. D/B/A Rio Grande Detention Center

NEGLIGENCE OF THE DEFENDANTS

Plaintiff asserts that the injuries and damages he sustained were proximately caused, individually and/or in combination by the negligent acts of Defendant, The GEO Group, INC. D/B/A Rio Grande Detention Center. Plaintiff alleges that the negligent acts of Defendant individually and in combination to be the proximate cause of the injuries and damages. Furthermore, Plaintiff seeks damages over \$200,000.00 but not more than \$1,000,000.00, more specifically set forth herein.

DAMAGES

As a direct and proximate result of the negligence of the Defendant, Plaintiff sustained the following, but not limited to:

- Past Medical Expenses;
- Future Medical Expenses to be incurred;
- Past Physical Impairment;
- Future Physical Impairment;
- Past Physical Pain and Mental Anguish; and

Future Physical Pain and Mental Anguish.

RULE 193.7

Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, Plaintiff hereby gives notice that all documents produced by any party to this case will be used at any potential proceeding or at the trial of this matter.

PRE-JUDGMENT INTEREST

Plaintiff further requests that he be awarded pre-judgment interest on all incurred damages as allowed by law.

REQUESTS FOR DISCLOSURE

REQUESTS FOR DISCLOSURE. Pursuant to Rule 194, Defendants are requested to disclose within 50 days of service of this request, the information or material described in Rule 194.2(a)-(l).

JURY TRIAL

Plaintiff demands a trial by jury.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the Defendants, be cited to appear and answer, and that upon final hearing hereof, Plaintiff have judgment over and against said Defendants, including, but not limited to, actual damages in an amount to exceed minimum jurisdiction of this Court; for pre-judgment and post-judgment interest as provided by law; for costs of court; and for such other and further relief, at law or in equity, as the Court may deem just and proper.

Respectfully submitted,
VIELMA LAW FIRM, PLLC
1007 San Dario Ave.
Laredo, Tx 78040
Tel: (956) 725-5500
Fax: (844) VIELMA-1

By: /s/ *Norma Nelly Vielma*

NORMA NELLY VIELMA
State Bar No. 24033415
Attorney for Petitioner



TELEPHONE NO. (956) 523-4954
FAX NO. (956) 523-5074

Oscar J. Hale, Jr.

State District Judge
406TH Judicial District Court
1110 Victoria St., Suite 402
Laredo, Texas 78040
406@webbcountvtx.gov

April 11, 2017

CAUSE NO.: 2017CVF000663D4

STYLE: AMERICO VALDEZ

VS

THE GEO GROUP INC

Please take NOTICE that this case is set for **CALENDAR CALL** on 07/17/2017 at 2:00 PM at the 406th District Court, 4th Floor, Webb County Justice Center.

All Calendar Call hearings will be in open court and on the record before the Honorable Judge Oscar J. Hale, Jr. Your presence is MANDATORY unless Counsel for Plaintiff(s) and Defendant(s) file a Joint Pre-Trial Guideline Order (PTGO) with all counsel signatures on the PTGO.

You may download the PTGO at our website: www.Webbcountytexas.gov/DC406th/Forms

Counsel for Plaintiff(s) please note that if you fail to appear your case may be dismissed for lack of prosecution.

Counsel for Defendant(s) please note that if you fail to appear for calendar call, a pre-trial guideline order may be entered with or without your approval and/or signature.

If there are any questions regarding this matter please feel free to call our office at any time.

A handwritten signature in black ink, appearing to read "Cruz Maldonado".

Cruz Maldonado
Civil Court Coordinator

DC: